

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: **Briere et al.**
Reissue Appl. No.: **09/553,413** Group Art Unit: **1722**
Filed: **April 20, 2000** Examiner: **Davis, R.**
For: **BLOW MOLDING DEVICE FOR PRODUCING**
THERMOPLASTIC CONTAINERS
Issued: **October 19, 1999** U.S. Patent No. **5,968,560**

November 8, 2001

ATTENTION: OFFICE OF PETITIONS
Assistant Commissioner of Patents
Washington, DC 20231

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**PETITION UNDER 37 CFR § 1.313(b)(5)
TO WITHDRAW APPLICATION FROM ISSUE**

Sir:

Pursuant to 37 CFR § 1.313(b)(5), Applicant hereby petitions that the present application be withdrawn from issue. Submitted concurrently herewith is the petition fee pursuant to 37 CFR § 1.17(i). Also submitted is a Continued Prosecution Application (CPA) pursuant to 37 CFR § 1.53(d) (and filing fee), a Information Disclosure Statement pursuant to 37 CFR § 1.97, and a Notification of Pending Litigation.

Newly amended Rule 53 states that a Continued Prosecution Application must be filed before payment of the issue fee in a prior application "unless a petition under § 1.313(b)(5) is granted in the prior application." 37 C.F.R. § 1.53(d)(1)(ii)(A). Accordingly, Applicant petitions to withdraw the present application from issue and, in the event such petition is granted, to allow filing of the accompanying Continued Prosecution Application. Applicant also requests return of the issue fee submitted by crediting Deposit Account 16-0605.

Applicant further requests that the references set forth in the Supplemental Information Disclosure Statement (which came to the Applicant's attention in light of co-pending litigation) and the Notification of Pending Litigation be considered in the CPA.

Comments Regarding New References

Additional art has been cited by an opposing party in pending litigation. This art was cited after payment of the issue fee. In an abundance of caution, Applicant, in the interest of full disclosure, has submitted such art. The applicant has reviewed the additional art and respectfully submits that these references are merely cumulative or less pertinent than references that have already been reviewed by the Examiner either in the initial examination or during the reissue proceeding.

To specifically counter an argument made by applicant's litigation adversary, applicant respectfully submits that it would **not** be obvious to combine the *Chittendon* reference (cited by the Examiner) with the attached references by *D'Agostino* (4,714,421), *Ruhl* (4,472,128), *Martin* (4,009,979) and *Selciya* (Japan Application No. HEI 1-60725). Indeed, the inventors themselves disclose in the patent that the quick fixing means "may be formed in many ways known to those skilled in the art."

Conclusion

The Examiner is respectfully requested to contact the undersigned attorney upon receipt of this filing, at the undersigned attorney's direct dial telephone number of 404 881 7968.

Respectfully submitted,


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Certification of Hand Delivery:

I hereby certify that this paper is being hand delivered to the Assistant Commissioner for Patents, Attention: Office of Petitions, Washington, DC 20231 on November 8, 2001.

